

Amend Sections 122, 125, 149.1, 150, 150.02, 150.03, 150.05, 163, 163.5, 164, 174,
and 180.3;
Add Section 124.1
Title 14, California Code of Regulations (CCR)
Re: Commercial Fishing Permit Renewal Provisions

- No modifications were made to the originally proposed language of the Initial Statement of Reasons.

At the April 11th adoption hearing in Bodega Bay, the Commission took action to adopt the proposed modifications to existing Title 14 commercial fishing permit regulations, as follows:

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- 3. Amend Section 174 of T14 relating to Gill Net/Trammel Net Permits, for consistency with other existing statutes**
- 4. Amend Section 180.3 of T14 relating to Spot Prawn Trap Fishery Permits, for consistency with other existing statutes, regulations and current Department licensing procedures.**

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those Considerations:

No public comments, written or oral, were received during the public comment period.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified.

(b) No Change Alternative:

Failing to amend the regulations as proposed would result in a conflict between the statute, which speaks generally, and more specific regulations previously promulgated by the Commission which speak to each specific type of fishery permit. The regulations must be amended to ensure that it is clear that the statute is the final word on issues surrounding commercial permit renewal late fees, late fee deadlines and appeal provisions.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which

the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

None.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The proposed changes are necessary to conform to recent statutory changes specifying permit renewal late fees, late fee deadlines, and renewal appeal provisions.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

1. Amend existing T14 regulations to conform to new language in Section 7852.2 of the Fish and Game Code, regarding commercial fishing permit renewal late fees, late fee deadlines, and appeal provisions, as established by AB 1144 (Ch. 279, Stats. 2007).

New language in Section 7852.2 of the Fish and Game Code, effective April 1, 2008, provides as follows:

Notwithstanding any other provision of law, a commercial fishing license, stamp, permit, or other entitlement for which there is a renewal deadline shall not be renewed after that deadline, except as follows:

(a) In addition to the base fee for the license, stamp, permit, or other entitlement, the department shall assess a late fee for any renewal the application for which is received after the deadline, according to the following schedule:

(1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars (\$125).

(2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars (\$250).

(3) Sixty-one days or more after the deadline, a fee of five hundred dollars (\$500).

(b) The department shall not waive the applicable late fee. The late fees specified in this section are applicable beginning in the 2008 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(c) The department shall deny any application for renewal received after March 31 of the permit year following the year in which the applicant last held a valid permit for that fishery.

(d) An applicant who is denied renewal of a late application may submit a written appeal for renewal to the commission within 60 days of the date of the department's denial. The commission, upon consideration of the appeal, may grant renewal. If the commission grants renewal, it shall assess the applicable late fee pursuant to subdivision (a).

Existing Title 14 regulations in Sections 122, 125, 149.1, 150, 150.02, 150.03, 150.05, 163, 163.5, 164, and 180.3 establish commercial permit requirements and permit renewal provisions for spiny lobster, rock crab, squid, nearshore, herring and spot prawn fisheries. The late fees, payment deadlines, and grace periods for permits in each of these Sections differs slightly from one another, as the regulations for each fishery-specific permit were adopted by the Commission over many years in numerous regulatory actions. The language in these sections conflicts with the new statutory provisions which now prevail on matters surrounding renewal for all commercial fishing permits. Amendment of the antiquated regulations is needed for clarity and consistency, and to allow the sliding late fee schedule established by statute to be implemented as the Legislature intended.

Additionally, the statute defines late permit renewal appeal provisions which now also apply to each of these commercial fishery permit programs. Amendments to the regulatory language in several of these Sections are needed for consistency and clarity on this subject as well.

Subdivision 1050(c) of the Fish and Game Code gives authority to the Commission to prescribe the terms and conditions under which commercial fishing permits shall be issued by the Department. The proposed amendments to each of these Sections would be promulgated under this authority, and would result in striking the old provisions and replacing them with the statement that that late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. The changes will also aid the Department's License and Revenue Branch staff and the permittees themselves, as streamlining the terms for all commercial permit renewals will allow for a simpler, more efficient and consistent renewal process for all fisheries.

2. Establish a renewal deadline of April 30 each year for Gill Net/Trammel Net Permits and Halibut Trawl Vessel Permits effective in 2009; consistent with the date for other moratorium and restricted access permit programs.

Section 174, Title 14, CCR, establishes a permit requirement for users of gill and trammel nets, and qualifications for this permit. However, there is no renewal deadline for the permit established in regulation or the Code, unlike virtually all of the other commercial fishing permit programs which require renewal by a set date each year. While Section 8681.5 of the Fish and Game Code allows for annual renewal of existing permits, since there is no established deadline, permittees may renew at any time during the permit year (April 1 through March 31). Beyond March 31, there is no regulation providing for grace period or late payment provisions, and since the provisions of Section 7852.2 are predicated upon the existence of a renewal deadline, the new statutory provisions would not apply.

Establishment of an annual renewal deadline is necessary to provide better notice to permittees of the annual renewal requirement, and in order for the renewal provisions of newly-amended Section 7852.2 to apply regarding late fees, late fee deadlines, and late renewal appeal provisions. The Department proposes a renewal date of April 30 each year, beginning in 2009, consistent with other commercial fishery permit programs. Requiring the same renewal deadlines across permit programs assists the Department in more efficient program administration by reducing the number of mailings and notices sent to commercial fishermen, as many individuals and vessels are issued permits for multiple fisheries each year.

Similarly, there is no annual renewal deadline for the statutorily-established California Halibut Trawl Vessel Permit, which has been required for halibut trawlers since April of 2006 pursuant to Fish and Game Code Section 8494. The Department proposes that the Commission add Section 124.1 to Title 14 to make specific the terms of Section 8494, by requiring the permit be renewed annually by April 30th of each year; and specify that the late fees, late fee deadlines, and late renewal appeal provisions for this permit are provided in Section 7852.2 of

the Fish and Game Code.

3. Amend Section 174 of T14 relating to Gill Net/Trammel Net Permits, for consistency with other existing statutes

Regulations of subsection 174(a), Title 14, CCR provide that it is unlawful to fish with a gill net or trammel net unless a permittee is aboard the vessel. Fish and Game Code Section 7857(c), amended after the regulation in subsection (a) was adopted, is specific on this point. The Department therefore proposes the Commission amend the provision in the regulation to make clear that the terms of Section 7857(c) govern, which will provide clarity and consistency. Additionally, because gill/trammel net permits may be issued at any Department office that issues commercial licenses, the Department proposes the Commission strike language in subsection 174(a) indicating permits shall be issued at department offices in Eureka, Menlo Park, Monterey, Long Beach and San Diego.

Amendments to subsections (c) and (d) are proposed to make clear that permits must be renewed annually by April 30, with late provisions specified in Section 7852.2 of the Fish and Game Code (see discussion in items 1 and 2 above). Additionally, language indicating that gill/trammel net permits are not transferable would be repealed, as permits in fact are transferable subject to conditions specified in Section 8681 of the Fish and Game Code. Other language which duplicates Code provisions relative to whom permits may be issued and the duration of the permit would also be removed as these provisions are duplicative.

Revocation provisions specified in subsection (h) are proposed to be updated to reflect that Fish and Game Code Section 8681 specifies that the commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Fish and Game Code Section 7857.

Typographical errors and technical corrections are proposed to subsections (b)(6) and (i).

4. Amend Section 180.3 of T14 relating to Spot Prawn Trap Fishery Permits, for consistency with other existing statutes, regulations and current Department licensing procedures.

Amendments to existing text of subsections (g), (i), (m), and (n) are proposed to make clear that permits must be renewed annually by April 30, with late provisions specified in Section 7852.2 of the Fish and Game Code (see discussion in items 1 and 2 above). Subsection (i), regarding appeal procedures for reinstatement of expired permits, would be repealed as the language is not consistent with appeal provisions of Section 7852.2. As a result, re-lettering of subsections (j) through (n) is proposed.

Amendments to subsection (h) are proposed to remove the street address of the Department's Monterey office. If a Department office moves to a new location, the regulation becomes inaccurate.

Amendments to re-lettered subsection (i), formerly subsection (j), are proposed to repeal listing the possession of a commercial fishing license, which is already required by Section 7857 of the Fish and Game Code. It is not necessary to restate the requirement.

Amendments to re-lettered subsection (j), formerly subsection (k), are proposed for clarity. A notarized statement from a spot prawn permittee who wishes to transfer the permit or change ownership of vessel with a valid permit is sufficient for the Department to review the permittee's request. It is not necessary to have a separate application for this purpose.

Additionally, amendments are proposed to change the time period to allow permit holders to transfer a permit from once each 12 months to once each permit year. Commercial fishing permits are valid for a permit year, April 1 through the following March 31. For administrative consistency for permittees, the time frame to transfer a permit should be the same as the valid period of the permit.

Amendments to re-lettered subsection (k), formerly subsection (l), are proposed that would require that persons applying for a change of ownership submit their request in the form of a notarized statement. Under existing regulations of other Sections of Title 14, persons applying for a transfer submit their request in the form of a notarized statement to the Department. The change is proposed for consistency. Re-lettered subsection (m) lists the change of ownership fee. Subsection (k)(4) would be added to specify the requirement that the fee be paid to the department, similar to the provisions listed for the transfer of a permit.

Action Taken

At the April 11th adoption hearing in Bodega Bay, the Commission took action to adopt the proposed modifications to existing Title 14 commercial fishing permit regulations, as follows:

- 1. Changes needed to conform to new language in Section 7852.2 of the Fish and Game Code, regarding commercial fishing permit renewal late fees, late fee deadlines, and appeal provisions, as established by AB 1144 (Ch. 279, Stats. 2007).**
- 2. Establish a renewal deadline of April 30 each year for Gill Net/Trammel Net Permits and Halibut Trawl Vessel Permits effective in 2009; consistent with the date for other moratorium and restricted access permit programs.**

- 3. Amend Section 174 of T14 relating to Gill Net/Trammel Net Permits, for consistency with other existing statutes**
- 4. Amend Section 180.3 of T14 relating to Spot Prawn Trap Fishery Permits, for consistency with other existing statutes, regulations and current Department licensing procedures.**

Regulatory Language

Subsection 122(f), Title 14, CCR, is amended to read:

§ 122. Lobsters, Permits to Take.

(f) Procedures and Deadline for Permit Renewal and ~~Forfeiture of Non-renewed Permits.~~

Applications for renewal of transferable and non-transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications presented or postmarked after April 30 and before June 1 will be assessed a late penalty pursuant to Section 7852.2 of the Fish and Game Code. Applications postmarked or presented after May 31 will not be considered. The holder of a transferable or non-transferable lobster operator permit who fails to renew his/her permit on or before May 31 will be considered to have forfeited that permit to the department and shall thereafter be able to commercially fish for lobster only under the authority of a lobster crewmember permit or by obtaining a transferable lobster operator permit pursuant to these regulations.~~

NOTE:

Authority cited: Sections 1050, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7852.2, 8043, 8046, 8250-8259, 9002-9006 and 9010, Fish and Game Code.

Section 124.1, Title 14, CCR, is added to read:

§124.1 California Halibut Bottom Trawl Vessel Permits.

(a) California Halibut Bottom Trawl Vessel Permits shall be issued pursuant to Section 8494 of the Fish and Game Code.

(b) Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of California Halibut Bottom Trawl Vessel Permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Section 1050, and Subsection 8494(h), Fish and Game Code.
Reference: Sections 1050, 8494 and 7852.2, Fish and Game Code.

Subsection 125(e)(2), Title 14, CCR, is amended to read:

§ 125. Commercial Rock Crab Permits.

(e) Southern Rock Crab Trap Permit Issuance.

(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.

(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year.

(B) All applications and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications for renewal of a southern rock crab trap permit received by the department, or if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications for renewal of a southern rock crab trap permit received or postmarked after May 31 shall be returned to the applicant unissued.~~

NOTE:

Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Subsection 125(g), Title 14, CCR, is amended to read:

§ 125. Commercial Rock Crab Permits.

(g) Appeals.

(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.

(2) Southern Rock Crab Trap Renewal Appeals. ~~Any applicant who is denied renewal of a southern rock crab trap permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid southern rock crab trap permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.~~ Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Subsection 149.1(g), Title 14, CCR, is amended to read:

§ 149.1. Market Squid Fishery Restricted Access Program.

(g) Application Deadlines for Annual Permit Renewal. All applications [FG 1315 (Rev. 11/05), incorporated by reference herein] and permit fees for renewal of Market Squid

Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department at the address specified on the application, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

~~Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from May 1 through May 31 of each permit year will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department at the address specified on the application, or, postmarked after May 31 of each permit year will be denied by the department and returned to the applicant.~~

NOTE: Authority cited: Sections 713, 1050, 7071, 7078, 7923, 8026, 8425, 8428 and 8429.5, Fish and Game Code. Reference: Sections 1050, 7050, 7071, 7701, 7708, 7852.2, 7923, 8026, 8101, 8425, 8428, 8429.5 and 8429.7, Fish and Game Code.

Subsection 149.1(h), Title 14, CCR, is amended to read:

§ 149.1. Market Squid Fishery Restricted Access Program.

(h) ~~Renewal Appeals. Any applicant who is denied renewal of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's written decision. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

NOTE: Authority cited: Sections 713, 1050, 7071, 7078, 7923, 8026, 8425, 8428 and 8429.5, Fish and Game Code. Reference: Sections 1050, 7050, 7071, 7701, 7708, 7852.2, 7923, 8026, 8101, 8425, 8428, 8429.5 and 8429.7, Fish and Game Code.

Subsection 150(j), Title 14, CCR, is amended to read:

§ 150. Nearshore Fishery Restricted Access Program.

(j) ~~Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326 (Rev. 11/05), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Nearshore Fishery Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not~~

~~be considered and the Nearshore Fishery Permit applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Subsection 150(m), Title 14, CCR, is amended to read:

§ 150. Nearshore Fishery Restricted Access Program.

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Subsection 150.02(g), Title 14, CCR, is amended to read:

§150.02. Control Dates for Other Nearshore Species; Permits to Commercially Take Deeper Nearshore Fish Species.

(g) Renewal.

(1) Applicants seeking renewal of a deeper nearshore species fishery permit must have held a deeper nearshore species fishery permit in the immediately preceding permit year.

(2) Applications [FG 1329 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of a deeper nearshore species fishery permit must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. ~~Applications received by the department or postmarked from May 1 through May 31, must be accompanied by a \$50 late fee. Applications received by the department or postmarked after May 31 shall be returned to the applicant unissued. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code~~ Section 7852.2.

(3) Applications for renewal must be accompanied by evidence that the qualification requirements specified in subsection (g)(1) have been met.

NOTE:

Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7071, 7852.2, 7857, 7858, 8585.5 and 8587.1, Fish and Game Code.

Subsection 150.03(g), Title 14, CCR, is amended to read:

§ 150.03. Nearshore Fishery Gear Endorsement Program.

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications [FG 1326 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications and permit fees for renewal of Nearshore Fishery Permit gear endorsements received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees for Nearshore Fishery Permit gear endorsements postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit gear endorsement applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

Subsection 150.03(h), Title 14, CCR, is amended to read:

§ 150.03. Nearshore Fishery Gear Endorsement Program.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department.

The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial. Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

Subsection 150.05(g), Title 14, CCR, is amended to read:

§ 150.05. Nearshore Fishery Bycatch Permit Program.

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications [FG 1328 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications and permit fees for renewal of Nearshore Fishery Bycatch Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Bycatch Permit applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8496, 8587 and 8587.1, Fish and Game Code.

Subsection 150.05(h), Title 14, CCR, is amended to read:

§ 150.05. Nearshore Fishery Bycatch Permit Program.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31,

2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Bycatch Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8496, 8587 and 8587.1, Fish and Game Code.

Subsection 163(b)(3), Title 14, CCR, is amended to read:

§163. Harvest of Herring.

~~(b)(3) Submit the required application form for Humboldt, Tomales or San Francisco bays, or Crescent City in time for it to be received at the department's License and Revenue Branch, Sacramento, prior to 5:00 p.m. on the first Friday of October. Any application received or postmarked after the above deadline will be subject to Section 163.5(f)(2)(A)(3) of Title 14, CCR.~~

Permit Renewal. Applications for renewal of all herring permits shall be received by the department, or if mailed, postmarked, on or before the first Friday of October each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 1050, 5510, 8550, 8553 and 8555, Fish and Game Code.

Reference: Sections 1050, 7852.2, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.

Subsection 163.5(f), Title 14, CCR, is amended to read:

§ 163.5. Penalties in Lieu of Suspension or Revocation -Herring Permittees.

(f) Procedures for determining monetary penalties:

(1) Monetary penalties (score range multiplied by the monetary range) for compromise settlement agreements shall be based on the following point system:

SCORE RANGE MONETARY RANGE

(Total Points)

1-10 \$200 per point as provided in subsection (f)(2) below.

11+ \$400 per point as provided in subsection (f)(2) below.

(2) The score range shall be based on a cumulative total of the points assigned in this subsection:

(A) POINTS ASSIGNED FOR CATEGORY I VIOLATIONS ARE AS FOLLOWS:

1. Failure to properly identify vessel (Sec. 163(d)) 1 point
2. Improperly marked buoys or flags (Sec. 163(f)(2)(F)) 1 point
3. Failure to submit application for renewal of permit prior to the established deadline (Sec. 163(b)(3)) 1 point

_____ plus 1/4 point
_____ for each state
_____ working day,
_____ or portion
_____ thereof, the
_____ application
_____ is late, not to
_____ exceed the cost
_____ of a nonresident
_____ herring permit as
_____ specified in
_____ Section 8550.5,
_____ Fish and Game
_____ Code.

4. ~~3.~~ Failure of permittee to have herring permit, commercial fishing license, or boat registration aboard the permit vessel (Sec. 163, para. 1) 2 points

5. ~~4.~~ Setting or operating nets within 300 feet of specified piers and jetties (Sec. 163(f)(2)(C) and (f)(2)(E)) 3 points

6. ~~5.~~ Failure to "tend" nets (Sec. 163(f)(2)(A)) 5 points

7. ~~6.~~ Failure of herring buyer to permanently mark all vehicles, containers or pallets (Sec. 163(j)(1)) 5 points

NOTE:

Authority cited: Sections 1050, 8553 and 8555, Fish and Game Code. Reference: Sections 309, 1050, 7852.2 8552, 8553 and 8555, Fish and Game Code.

Subsection 164(h), Title 14, CCR, is amended to read:

§ 164. Harvesting of Herring Eggs.

(h) Permit applications. Each applicant for a herring eggs on kelp permit shall:

(1) Completely fill out and submit the required department Herring-Eggs-on-Kelp Permit Application (FG 1406 5/07)) which is incorporated by reference herein (available at the department's License and Revenue Branch, Sacramento), for the season to which the application applies. No person shall submit more than one application per season. Applications shall include a performance deposit as specified in subsection (i), ~~and shall be delivered to the department's License and Revenue Branch, Sacramento or postmarked no later than 5 p.m. on August 1 of each year.~~

(2) ~~Applications postmarked or presented after August 1 and before September 1 will result in a monetary penalty of \$200 plus \$50 for each state working day, or portion thereof, that the application is late, for a period of 30 days. Applications postmarked or presented after August 31 will not be eligible for renewal.~~ Permit Renewal. Applications for renewal of all Herring-Eggs-on-Kelp permits shall be received by the department, or if mailed, postmarked, on or before August 1 each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 1050, 5510, 8389, 8553 and 8555, Fish and Game Code.

Reference: Sections 1050, 7850, 7850.5, 7852.2, 8043, 8053, 8389 and 8550-8556, Fish and Game Code.

Section 174, Title 14, CCR, is amended to read:

§174. Permit to Use Gill Nets or Trammel Nets for Commercial Purposes.

(a) Permit Required.

(1) The owner or operator of a vessel using a gill net or trammel nets shall have obtained a valid gill net/trammel net permit and shall be in possession of said permit when engaged in gill netting or trammel netting activities except as provided under subsection (i). ~~Except as otherwise provided, it is unlawful to fish with a gill net or trammel net unless a permittee is aboard the vessel.~~ Pursuant to Fish and Game Code Section 7857(c), the permittee shall be present when fish are being taken, possessed aboard a boat, or landed for commercial purposes.

(2) To Whom Issued. The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel who has qualified pursuant to subsection (b).

~~(3) Where Issued. Permits shall be issued at department offices in Eureka, Menlo Park, Monterey, Long Beach and San Diego.~~

(b) Qualifications for the Permit. To qualify for a permit, an applicant shall:

(1) Have worked as a crewmember for at least 12 months on vessels using gill nets or trammel nets and shall have worked at least 180 days at sea on such vessels; or

(2) Pass a proficiency examination administered by the department. The proficiency examination shall include written and performance tests which demonstrate knowledge of the proper use of gill nets or trammel nets.

(3) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 10,000 pounds of fish during a 12-month period, or has landed fish during a 12-month period for which he was paid at least \$10,000. Only landings of fish caught by the use of gill nets or trammel nets shall be used to satisfy the catch requirements of this subsection; or

(4) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 1,000 pounds of fish taken in gill nets or trammel nets in 4 of the 5 license years prior to the date of application; or

(5) Have possessed a permit issued pursuant to this section during the previous season and shall have complied with subsection (f) of these regulations.

(6) Only landings and crewmember experience occurring during the five year period prior to the date of application shall be used to meet the requirements of subsection (b). The applicant shall supply documentation that he was a legally licensed commercial fisherman when he made the required landings or met the crewmember experience requirements. Crewmember experience shall be documented by fishing records submitted to the department as required by subsection ~~(j)~~ (f), or by a notarized document signed by the owner or operator of vessels ~~on~~ on which the applicant has completed the required experience. Landings of fish shall be verified by the submission of copies of landing receipts.

(c) Limitations of Permit. ~~Permits are nontransferable. Not more than one permit shall be issued to any person. Permits must be renewed annually.~~

(d) Permit Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of gill net/trammel net permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

~~(d) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations, shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.~~

(e) Cost of Permit. See section 8683 of the Fish and Game Code.

(f) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of all gill net and trammel net fishing activities on a form (Gill and Trammel Net Log, DFG 174 (10/89), see Appendix A) provided by the department.

(g) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees or those acting, under their direction or control.

~~(h) Revocation of Permits. A permit may be revoked or canceled by the commission for a period not to exceed one year from the date of revocation upon a conviction for a violation of a provision of article 5, chapter 3, part 3, division 6 of the Fish and Game Code, or any regulation authorized by this article, or the terms or conditions of this section by the holders thereof, their agents, servants, employees, or those acting under their direction and control.~~ Revocation. As specified in Fish and Game Code Section 8681, the commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Fish and Game Code Section 7857.

(i) Exemptions from Permit. The owner or operator of a vessel operating under a permit issued pursuant to section 163, ~~title 14, CAC,~~ of these regulations is not required to possess the permit authorized by this section.

NOTE:

Authority cited: ~~Section~~ Sections 1050 and 8682, Fish and Game Code.

Reference: Sections 1050, 1700, 7852.2, 8568, 8680, 8681, 8682 and 8683, Fish and Game Code.

Section 180.3, Title 14, CCR, is amended to read:

§ 180.3. Restricted Access Spot Prawn Trap Fishery.

(a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access spot prawn trap fishery. Only those vessels which have made at least one spot prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery. Additional vessels which have made landings of spot prawns with trawl gear between 1994 and 2001 also may be considered for inclusion in the restricted access spot prawn trap fishery (trawl conversion program).

(b) Permit Requirement, Classification of Permits and Permit Conditions. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, issued pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked.

(1) Tier 1 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the number of traps specified for Tier 1 permits pursuant to Section 180.1(c), Title 14.

(2) Tier 2 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(2) shall be considered as Tier 2 permits, and permitted vessels are authorized to use the number of traps specified for Tier 2 permits pursuant to Section 180.1(c), Title 14. Permitted vessels with Tier 2 permits may not exceed a maximum of 5000 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of 5000 pounds in any permit year shall be forfeited to the department.

(3) Tier 3 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(3) shall be considered as Tier 3 permits, and permitted vessels are authorized to use the number of traps specified for Tier 3 permits pursuant to Section 180.1(c), Title 14. Tier 3 permits shall also be known as trawl conversion permits.

(c) Initial Issuance Criteria. A spot prawn trap vessel permit for a specific tier shall be issued only to the following persons for use on qualifying vessels:

(1) Tier 1 Permits. A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum vessel-based landing requirements:

(A) at least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) at least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) at least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(2) Tier 2 Permits.

(A) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (c)(1) and has satisfied at least one of the following minimum vessel-based landing requirements:

1. at least 10 landings of spot prawns, utilizing traps, in calendar year 1998;
2. at least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(B) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(3) Tier 3 Permits. Prawn points will be used to determine eligibility for initial issuance of Tier 3 permits. Any person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code between 1994 and 2001 will receive points based on spot prawn landings made utilizing trawl gear.

(A) Points will be awarded to a vessel based on landing history between January 1, 1994 through December 31, 2001 as documented by fish landing receipts that were submitted to the department pursuant to Section 8046 of the Fish and Game Code in the vessel's name and commercial boat registration number as follows:

1. One hundred prawn points will be earned for each calendar year in which the vessel made a landing of spot prawn with trawl gear between 1994 and 2001.
2. One prawn point will be earned for every 500 pounds of spot prawn the vessel landed with trawl gear between 1994 and 2001; and
3. One prawn point will be earned for each landing of spot prawn a vessel made with trawl gear between 1994 and 2001;

(B) A vessel must have in excess of 1,000 prawn points to qualify for initial issuance of a Tier 3 permit.

(d) Capacity Goal. The commission has determined that the spot prawn trap fishery capacity goal for Tier 1 and Tier 3 permits combined shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(e) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permits.

(1) Tier 1 and Tier 2 Permits. All applications and permit fees for initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(2) Tier 3 Permits. All applications (FG 1424 (new, 8/04) incorporated by reference herein) and permit fees for initial issuance of Tier 3 spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than February 28, 2005. Applications for initial issuance of Tier 3 spot prawn trap vessel permits received from March 1 through March 31, 2005 shall be considered late and will be assessed a late fee pursuant to subsection (n). Applications and monies due for initial issuance of Tier 3 spot prawn trap vessel permits not received or, if mailed, not postmarked, by March 31, 2005 shall be returned to the applicant unissued.

(f) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit.

(g) Annual Spot Prawn Trap Vessel Permit Renewal. Applications [FG 1422 (Rev. 11/05) incorporated by reference herein] for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee pursuant to subsection (n). Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.~~

(h) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to the department's office in Monterey, Department of Fish and Game, Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

~~(i) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. Any applicant who is denied issuance of a spot prawn trap vessel permit for failure to submit an application prior to the application deadline may appeal to the department in writing. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.~~

~~(j) (i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the permittee fails to:~~

~~(1) renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or~~

~~(2) submits false information for the purposes of obtaining a spot prawn trap vessel permit.~~

~~(k) (i) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit to another vessel may be approved for use on a replacement vessel only if all of the following criteria are met:~~

~~(1) In the form of a notarized letter, the owner of the vessel which is issued a permit shall submit an application for transfer of a Spot Prawn Trap Vessel Permit to the department. In the form of a notarized letter, the owner of the vessel which has a valid~~

Spot Prawn Trap Vessel Permit shall submit a request for transfer of a Spot Prawn Trap Vessel Permit to the department.

~~(2) The vessel owner pays the non-refundable transfer fee specified in subsection (n).
(m) to the department.~~

~~(3) Unless the vessel was lost, stolen, or destroyed, a permit may not be transferred more than once during any permit year 12-month period.~~

~~(4) The spot prawn trap vessel permit for the permitted vessel is valid, and has not been suspended or revoked current.~~

~~(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgager, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.—The owner of a vessel with a valid Spot Prawn Trap Vessel Permit has written authority from the legal owner and/or partners, or mortgager, of the replacement vessel, to which the permit shall be transferred, to transfer the Spot Prawn Trap Vessel Permit from the permitted vessel to the replacement vessel.~~

~~(l) Change of Ownership of a Spot Prawn Trap Vessel Permit.)~~

~~(1) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.~~

~~(2) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3-year period, and not before April 1, 2005. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.~~

~~(3) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.~~

~~(4) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a written request for change of ownership to the department and pays a non-refundable change of ownership fee. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:~~

~~(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code,~~

~~(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.~~

~~(5) Notwithstanding the transfer of ownership provisions in subsection (l) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the department to transfer that permit to the estate. The application for transfer shall be received by the department within one year of the death of the permittee.~~

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3-year period. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate submits a notarized letter for the change of ownership of ownership to the department, within one year of the death of the permittee as listed on the death certificate.

(2) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a notarized statement for change of ownership to the department. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked.

(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code that has not been suspended or revoked. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding the transfer of ownership provisions in subsection (k) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the department to transfer that permit to the estate. The request for transfer shall be received by the department within one year of the death of the permittee.

(4) The vessel owner pays the non-refundable transfer fee specified in subsection (m) to the department.

(5) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.

(6) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.

(m) (l) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel Tier 1 or Tier 2 permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. Any applicant who is denied initial issuance of a Tier 3 spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than September 30, 2005. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision

(2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit. The appeal shall be reviewed and decided by the department. The decision of the department may

~~be appealed in writing to the commission within 60 days of the date of the department's decision.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

~~(n)~~ (m) Fees.

(1) Tier 3 Initial Issuance Fee. The department shall charge a fee for each Tier 3 spot prawn trap vessel permit of \$1,015.

(2) Annual Renewal Fee. The department shall charge an annual fee for each Tier 1 and Tier 2 spot prawn trap vessel permit of \$266.50. The department shall charge an annual renewal fee for each Tier 3 spot prawn trap vessel permit of \$1,066.25. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Vessel Transfer Fee. The department shall charge a non-refundable fee of \$200 for each vessel transfer.

(4) Change of Ownership Fee. The department shall charge a non-refundable fee of \$50 for each change of ownership of the spot prawn trap vessel permit.

(5) Initial Issuance Late Fees. The department shall charge a non-refundable late fee of \$50 if an application for initial issuance of a Tier 1 or Tier 2 spot prawn trap vessel permit is received from July 1 to July 31, 2002. The department shall charge a non-refundable late fee of \$50 if an application for initial issuance of a Tier 3 spot prawn trap vessel permit is received from March 1 to March 31, 2005.

~~(6) Renewal Late Fee. The department shall charge a non-refundable late fee of \$50 if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.~~

NOTE: Authority cited: Sections 713, 1050 and 8591, Fish and Game Code. Reference: Sections 1050, 7852.2, 8101, 8591, 8593, 8594, 8595, 9000, 9001 and 9015, Fish and Game Code.